

May 13, 2002

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

MOTION TO OPPOSE THE RACIAL PRIVACY INITIATIVE (ITEM NO. 6, AGENDA OF MAY 14, 2002)

Item No. 6 on the May 14, 2002 Agenda is a motion by Supervisor Burke to oppose the Racial Privacy Initiative because of its detrimental impact on the residents of Los Angeles County and to direct the Commission on Human Relations to actively inform the public of the Board's opposition to the measure.

The Racial Privacy Initiative would prohibit the State and other public entities from classifying any individual by race, ethnicity, color or national origin for purposes of public education, public contracting or public employment. It would also prohibit such classification for any other State purpose unless the Legislature determines that the classification serves a compelling State interest and is approved by a 2/3 vote in both houses and by the Governor. The measure exempts the Department of Fair Employment and Housing from conducting classifications by race for ten years, unless extended by the Legislature. Classification of medical research subjects and patients is also exempt; however, it is unclear how this exemption will be interpreted. If approved by the voters, the measure would become effective on January 1, 2005.

Ward Connerly, Chairman of the American Civil Rights Coalition, is the sponsor of the Racial Privacy Initiative. He successfully campaigned for passage of Proposition 209 in November of 1996 to eliminate affirmative action programs in California. Proponents of

the measure contend that it will help move California and the nation toward a color-blind society. Opponents charge that the measure would make it impossible to enforce anti-discrimination laws or to propose or evaluate public policies to determine if they are in the best interests of the communities they are intended to serve.

The Department of Health Services (DHS) is concerned about the initiative from a public health perspective because it may limit the Department's ability to detect health trends in ethnic communities and make data-based recommendations. The measure would greatly reduce accurate reflection of health status, behavior, and health care utilization data which is vital to provide evidence of health disparities, to pinpoint specific health problems and to provide accurate health information for public health and health services planning.

The Department of Public Social Services (DPSS) indicates that the Department routinely collects information on the ethnicity, race and primary language of applicants and recipients. This information is sorted by program (CalWORKs, food stamps) and by geographical units (political districts, cities, zip codes). This measure would prohibit the Department from continuing to collect and use data on ethnicity and race to help understand the effectiveness of programs for various categories of recipients and to tailor programs to particular geographical areas.

The Department of Children and Family Services reports that the Racial Privacy Initiative would not have a direct impact on their operations. However, because some medical conditions and diseases affect individuals of certain races or ethnic backgrounds exclusively, or in greater number than other groups, knowledge of the racial or ethnic heritage of children in the Department's care could be useful to health care providers in diagnosing an illness.

The Office of Affirmative Action Compliance strongly opposes this initiative because it would eliminate the ability of the County to collect information on the race/ethnicity and gender of all County employees and applicants for employment. This information is necessary to ascertain areas of underutilization and determine if women and minorities are being adversely impacted by discriminatory employment decisions. The initiative would also make it impossible for the County to objectively investigate race and gender related employment discrimination charges, because much of the County's affirmative defense relies on analyzing this data. Moreover, the initiative would prohibit the County from collecting data on women and minority-owned businesses, making it impossible to assess progress toward increasing the participation rates of these two groups in contracts awarded by the County.

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The Sheriff's Department is continuing to review the measure and indicates that it may present significant concerns for the Department.

The Los Angeles County Commission on Human Relations indicates that the Racial Privacy Initiative would prohibit the Commission's collection and analysis of annual hate crime data for Los Angeles County, making it impossible to track hate groups and focus resources on areas of interracial and intergroup tensions. It would make it impossible to investigate and prove discrimination and to determine objectively if racial profiling is taking place. **The Commission recommends that the Board of Supervisors oppose the Racial Privacy Initiative because the loss of this data would undermine Commission programs, the distribution of resources, and the ability of the County to develop sound public policy and effectively deliver needed services. DHS, DPSS and the Office of Affirmative Action Compliance join the Commission in recommending opposition to the measure, and we concur.**

The Racial Privacy Initiative has not yet qualified for the ballot. If the Secretary of State determines qualification status by June 24, 2002, the measure will appear on the November 2002 ballot. If qualification is determined after that date, the measure will be on the March 2004 ballot.

DEJ:GK
MS:md

c: Executive Officer, Board of Supervisors
 Affirmative Action
 Commission on Human Relations
 Department of Children and Family Services
 Department of Health Services
 Department of Public Social Services
 Sheriff